

### **REMARKS/ARGUMENTS**

Applicant would like to thank the Examiner and the Examiner's Supervisor for granting the telephone interview conducted on June 1, 2009. During the interview, proposed amendments were presented by the applicant's representative. A further explanation regarding the distinction between the claimed subject matter and the prior art references was presented as well. In particular, none of the prior art references explicitly discloses: in the event no program in the electronic program guide satisfies the criterion, searching electronic program guide data periodically and/or upon receiving an update of electronic program guide data, until a program in the electronic program guide satisfies the criterion, as required in claims 35 and 36. Accordingly, applicant proposed to amend independent claims 21, 58, and 82 by incorporating the limitations of claims 35 and 36. It was agreed by the Examiner and the Examiner's Supervisor that, there is no teaching of claims 35 and 36 in the cited passage of the prior art as mentioned in the Office action. As the proposed amendment is based on the existing dependent claims 35 and 36, there is no new issue raised in the amendment after the final rejection. Thus, it was also agreed by the Examiner and the Examiner's Supervisor that the amended application will be reconsidered.

By the present amendment, claims 21-34, 37-42, 58-76, and 82-85 remain in this application. Claims 35, 36, 43-57, 77-81, and 86-88 are canceled in this amendment while claims 1-20 have been canceled previously. Applicant amends claims 21, 58, 61-63, and 82 in the present application to more clearly and particularly describe the claimed subject matter. New claims 89-103 have been added without introducing new subject matter. Applicant respectfully requests reconsideration and allowance.

***Claim Rejections - 35 USC § 103***

Claims 21, 22, 25-28, 30, 32-37, 43, 44, 49-52, 82, and 83 are rejected under 35 U.S.C. 103(a) as being unpatentable over Killian (6,163,316) in view of Ismail (6,614,987), Knudson *et al.* (6,141,488, hereinafter “Knudson”), Yuen *et al.* (6,091,884, hereinafter “Yuen”), and Fuchigami (6,393,463).

Claims 23, 24, 38, 45, 48, 84, and 85 are rejected under 35 U.S.C. 103(a) as being unpatentable over Killian, Ismail, Knudson, Yuen, and Fuchigami, and further in view of Herz *et al.* (5,758,257).

Claims 40-42 are rejected under 35 U.S.C. 103(a) as being unpatentable over Killian, Ismail, Knudson, Yuen, and Fuchigami, and further in view of Vogel (5,253,066).

Claims 39, 46, and 47 are rejected under 35 U.S.C. 103(a) as being unpatentable over Killian, Ismail, Knudson, Yuen, and Fuchigami, and further in view of Scarampi (4,931,865).

Claims 29, 31, 53-55, and 57 are rejected under 35 U.S.C. 103(a) as being unpatentable over Killian, Ismail, Knudson, Yuen, and Fuchigami, and further in view of Terakado *et al.* (6,311,329, hereinafter “Terakado”).

Claims 58, 59, 61-66, 76-78, 80, 81, and 86-88 are rejected under 35 U.S.C. 103(a) as being unpatentable over Killian in view of Ismail, Knudson, and Fuchigami.

Claims 60, 67-69, 73-75, and 79 are rejected under 35 U.S.C. 103(a) as being unpatentable over Killian, Ismail, Knudson, and Fuchigami, and further in view of Yuen.

Claims 70-72 are rejected under 35 U.S.C. 103(a) as being unpatentable over Killian, Ismail, Knudson, Fuchigami, and Yuen, and further in view of Terakado.

Independent claim 21 has been amended by incorporating the limitations in claims 35 and 36 to distinguish further the claimed subject matter from the cited references. Claim 21 explicitly requires, “in the event no program in the electronic program guide satisfies the criterion, searching electronic program guide data periodically and/or upon receiving an update of electronic program guide data, until a program in the electronic program guide satisfies the criterion”. The cited passage of the Killian reference (see col. 8, lines 5-36) in the Office action neither teaches nor suggests the limitation above as required in amended claim 21. Furthermore, none of the cited prior art references in the Office action discloses that limitation. Therefore, it is respectfully requested that the rejection of claim 21 be withdrawn.

Similar to the argument made above with respect to claim 21, independent claims 58 and 82 have been amended to distinguish further the claimed subject matter from the cited references. Therefore, it is respectfully requested that the rejection of claims 58 and 82 be withdrawn.

Claims 22-34, 37-42, 59-76, and 83-85 depend from either one of independent claims 21, 58, and 82 and are, therefore, allowable for at least the reasons provided in support of the allowability of claims 21, 58, and 82.

Claims 35, 36, 43-57, 77-81, and 86-88 have been canceled in the current amendment.

Claims 89-103 have been newly added to the application. Claims 89-103 are patentable as they do not introduce any new subject matter, and define further features not disclosed in or suggested by the cited references.

In light of the foregoing, it is respectfully submitted that the present application is in condition for allowance and notice to that effect is hereby requested. If it is determined that the

application is not in condition for allowance, the Examiner is invited to initiate a telephone interview with the undersigned attorney to expedite prosecution of the present application.

If there are any additional fees resulting from this communication, please charge same to our Deposit Account No. 16-0820, our Order No. ACER-45156.

Respectfully submitted,  
PEARNE & GORDON, LLP

By:                     / Robert F. Bodi /                      
Robert F. Bodi – Reg. No. 48,540

1801 East 9<sup>th</sup> Street  
Suite 1200  
Cleveland, Ohio 44114-3108  
(216) 579-1700

Date: June 8, 2009